

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-010115

08/08/2017

HON. RANDALL H. WARNER

CLERK OF THE COURT

K. Ballard

Deputy

ROBERT J BARON

ROBERT J BARON

18631 N 19TH AVE

158-288

PHOENIX AZ 85027

v.

HONORHEALTH, et al.

ANDREW S ASHWORTH

DOCKET-CIVIL-CCC

PARTIAL DISMISSAL

Courtroom: ECB-912

9:00 a.m. This is the time set for oral argument regarding Defendants' April 20, 2017 Motion to Dismiss First Amended Complaint. Plaintiff Robert J. Baron is present on his own behalf. Defendants are represented by Counsel Andrew S. Ashworth.

A record of the proceedings is made digitally in lieu of a court reporter.

Oral argument is presented.

IT IS ORDERED taking this matter under advisement.

9:22 a.m. Matter concludes.

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Later

Plaintiff alleges he was wrongfully terminated from a job at HonorHealth in violation of the Arizona Employment Protection Act (“AEPA”). That statute authorizes a claim by an “employee” against an “employer” for certain categories of wrongful termination. A.R.S. § 23-1501(A)(3). “Employer” includes HonorHealth as the company that employed Plaintiff. It also includes a “supervisor with day-to-day control over the company, including the right to fire” when “the supervisor has in fact exercised such control to harm another.” *Higgins v. Assmann Elecs., Inc.*, 217 Ariz. 289, 294, 173 P.3d 453, 458 (App. 2007).

Higgins does not hold that every individual involved in the termination process can be liable under the AEPA. Rather, it sets forth a specific circumstance under which an individual may be considered the “employer.” Based on the allegations in the First Amended Complaint, none of the Individual Defendants satisfy this definition. The AEPA claim must be dismissed as to the Individual Defendants.

Plaintiff’s claim under A.R.S. § 36-450.02 must be dismissed as to all Defendants because Plaintiff is not a “health professional” within the terms of that statute. That term has a specific meaning under the statute: it applies only to persons certified or licensed pursuant to one of several statutes. A.R.S. §§ 32-3201(2), 36-450. Although Plaintiff may be highly educated and credentialed, he does not fall into any of those specific categories of “health professionals.”

Plaintiff’s claims for fraud, negligence, intentional infliction of emotional distress and negligent infliction of emotional distress must be dismissed for failure to state a claim. The facts Plaintiff alleges, even if true, do not state any of those claims.

IT IS ORDERED granting the Motion. The First Amended Complaint is dismissed as to all Individual Defendants. As to HonorHealth, all claims except that under the Arizona Employment Protection Act are dismissed.